IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5871 OF 2004

Shri Mohan Bhajandas Kawade .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

WITH

CRIMINAL APPLICATION NO. 5872 OF 2004

Shri Mohan Bhagwan Kawade & Ors. ..Applicants.

V/s.

The State of Maharashtra ..Respondent.

Shri R.V. More for the Applicants in both the mattrs.
Shri K.V.Saste, APP for the State in both the matters.

CORAM : A.M.KHANWILKAR, J.
DATED : JANUARY 17, 2005

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. The applicants in the above applications, in terms of the order dated 10th January, 2005 have admittedly reported to the investigating officer, who in turn has taken the specimen signatures, handwriting and thumb impressions of the respective Applicants. In that sense, custodial interrogation of the

applicants will not be necessary. Today, the learned APP, however, states on instructions of the investigating officer, who is present in the court, that the applicants have not produced the proceedings which are in their custody. The record indicates that the Secretary of the Institution in question was one Anil Subhash Kawade, who was arrested and was in custody till he was released on regular bail. Ordinarily, the proceedings are in the custody of the secretary. There is nothing on record to suggest that the proceedings are in custody of the applicants herein. The investigation officer, however, states that the secretary Anil Subhash Kawade, during the interrogation has stated that the proceedings are in custody of the present applicants. It is surprising that, however, no record has been made of the said statement. Specific question was put to the investigating officer, whether he has recorded that fact either in the form of statement of the co-accused Anil Subhas Kawade or in the police diary or in any other manner. He conceded that, that fact has not been recorded. If it is so, this court has to proceed on the basis that there is nothing on record even to remotely indicate that the proceedings were in the custody of the applicants herein. If it is so, as the

custodial interrogation of the applicants is not necessary for any other purpose, the Applicants are granted anticipatory bail on the following terms.

(a) The Applicants are granted anticipatory bail in connection with C.R.No. 215/2004, registered with Pandharpur Taluka Police Station, Dist. Solapur on executing personal bond in the sum of Rs. 25,000/- (Rs. Twentyfive thousand only) each with two local sureties in the like amount.

(b) The Applicants shall abide by the conditions stipulated under section 438(2) of the Code as applicable to the State of Maharashtra.

(c) Applications are disposed of in the above terms.

3. Ordered accordingly.

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